

Law Office of Jack Silver

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June 21, 2011

**VIA CERTIFIED MAIL -
RETURN RECEIPT REQUESTED**

Paul J. Hobbs
Owner and Operator
Paul Hobbs Winery, Inc.
Paul Hobbs Winery, LP
3355 Gravenstein Highway North
Sebastopol, CA 95472

Paul J. Hobbs, Trustee
Paul Hobbs Trust
3361 Highway 116, North
Sebastopol, CA 95472

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Mr. Hobbs:

NOTICE

The Clean Water Act ("CWA" or "Act") Section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency ("EPA") and the State in which the violations occur.

Northern California River Watch ("River Watch") hereby gives notice to Paul J. Hobbs, the Paul Hobbs Trust, Paul Hobbs Winery, Inc. and Paul Hobbs Winery, LP, (hereafter collectively referred to as "Dischargers",) that following the expiration of sixty (60) days from the date of this Notice, River Watch will be entitled to bring suit in the United States District Court against the Dischargers for continuing violations of "an effluent standard or limitation", permit condition or requirement and/or "an order issued by the Administrator or a State with respect to such standard or limitation" under CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1), the Code of Federal Regulations, and the Regional Water Quality Control Board's Basin Plan, as exemplified by the incidents of non-compliance identified and outlined in this Notice.

This Notice also addresses the Dischargers' failure to comply with the terms and conditions of California's General Industrial Storm Water Permit for Industrial Storm Water Discharges, their illegal discharges of contaminated stormwater from their facilities as further described in this Notice, and their violations of the procedural requirements of National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 97-03-DWQ, WDID No. 1B12S016487 issued pursuant to CWA § 402(p), 33 U.S.C. § 1342(p), ("General Permit"). The Act prohibits storm water discharges without a permit (33 U.S.C. § 1342; 40 C.F.R. § 122.26).

The CWA requires that any notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify:

1. *The specific standard, limitation, or order alleged to have been violated*

To comply with this requirement River Watch has identified the General Permit and has specifically identified the applicable permit standard, limitation or condition being violated. Further, River Watch contends the Dischargers have violated General Waste Discharge Order No. R1-2004-0030.

2. *The activity alleged to constitute a violation*

River Watch has set forth narratives below describing with particularity the activities leading to violations and incorporating by reference other public documents in the Dischargers' possession or otherwise available to the Dischargers regarding compliance with that Permit and any other information designed to inform the Dischargers or the public.

3. *The discharger responsible for the alleged violation.*

The dischargers responsible for the alleged violations are Paul J. Hobbs, the Paul Hobbs Trust, Paul Hobbs Winery, Inc., and Paul Hobbs Winery, LP, collectively referred to as "Dischargers" throughout this Notice. River Watch contends the liability of Paul J. Hobbs, stems from his ownership, management, or operation of the site and facilities which are the subject of this Notice, or due to the activities conducted on said site and facilities by the Paul Hobbs Trust, Paul Hobbs Winery, inc., and/or Paul Hobbs Winery, LP.

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in the narrative section of this Notice and in records of regulatory agencies with jurisdiction over the site and the logging activities or created or maintained by or for the Dischargers which relate to

activities at the site. The primary location of the violations is the real property located at 11835 Highway 116, in Forestville, Sonoma County, California.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activities occurred.*

River Watch has examined Regional Water Quality Control Board ("RWQCB") records as well as records on file with Sonoma County Permit and Resource Management Department, California Department of Forestry and Fire Protection ("CalFire") and the Dischargers' records (or lack thereof) for the period from February 1, 2011 to the present time and contends the Dischargers have been in violation of the CWA ever since the onset of major logging operations in the absence of the necessary permit. Disposition, discharge, and release of pollutants can be traced as far back as February 1, 2011. The range of dates covered by this Notice is February 1, 2011 to June 15, 2011. River Watch will from time to time update and supplement this Notice to include all violations which occur after the date of this Notice. The majority of the violations identified in this Notice such as discharging pollutants to waters of the United States, failure to implement the requirements of the CWA, failure to meet water quality objectives, etc., are continuous, and therefore each day is a violation.

6. *The full name, address, and telephone number of the person giving notice.*

The full name, address, and telephone number of the person giving notice is Northern California River Watch, referred to in this Notice as "River Watch," a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California. River Watch is organized under the laws of the State of California. Its address is 500 North Main Street, Suite 110, P.O. Box 817, Sebastopol, CA 95472, Telephone 707-824-4372.

HISTORY OF OPERATIONS

The Dischargers own and operate real property located at 11835 Highway 116, in Forestville, Sonoma County, California, identified as Assessor's Parcel Number 085-140-015-000. Included in this parcel of land was a forested ridge top located above Mays Canyon Creek, a tributary to the Russian River. The property is located above a domestic community water well and is characterized by steep slopes.

During the rainy season in the months of February through April of 2011, the Dischargers engaged in a major timber conversation on the property identified in Timber Harvest Plan 1-08-149 SON. Forests were cut down, felled trees were skidded into piles, stumps were pulled out of the ground and logs were hauled away in logging trucks.

CalFire granted approval to the Dischargers for this logging operation with the condition that no logging could occur until proper application and enrollment in the Waste Discharge program for Discharges Related to Timber Harvest Activities on Non-federal Lands in Northern California (General Waste Discharge Requirement Order No. R1-2004-0030) was accomplished. The General Waste Discharge Requirement Order contains discharge prohibitions and receiving water limitations, as well as requiring the submittal of technical reports, an inspection schedule, and a filing/annual fee. Further, the Dischargers were required to obtain local government approvals, prepare and submit an erosion control plan for approval, complete and record a conservation easement, and establish that the timber conversion itself had an acceptable public benefit.

River Watch contends the Dischargers failed to apply for and obtain enrollment in a waste discharge program for logging activities pursuant to Order No. R1-2004-0030 prior to engaging in clear cut logging activities which were carried out on the steep slopes above Mays Canyon Creek and other tributaries of the Russian River. Further, that the Dischargers failed to obtain local government approvals for the logging activities, failed to prepare and submit an erosion control plan for approval for the logging activities, failed to complete and record a conservation easement, and failed to establish that the timber conversion itself had an acceptable public benefit.

The Russian River is critical habitat for fish species listed as endanger of extinction, and is on the federal list of impaired water bodies for sediment and siltation. Samples taken from Mays Canyon Creek following the Dischargers' logging operations taking place in February through April of 2011 indicate significant turbidity and siltation resulting from these operations. River Watch is informed and believes and thereon alleges that the Dischargers have since applied for a waiver from the discharge requirements set forth in Order No. R1-2004-0030 and have been denied enrollment into the North Coast RWQCB Categorical Waiver program because the logging activities do not meet the waiver criteria.

As a result of the Dischargers' logging activities as identified in this Notice, pollutants including dirt, soil, sediment, mud and woody debris were discharged and continue to be discharged to receiving waters and waters of the United States. Such discharges are prohibited under state and federal law and are in violation of the requirements of the North Coast RWQCB's Board's waste discharge program for timber harvest activities on non-federal lands.

VIOLATIONS

The RWQCB has adopted a Water Quality Control Plan or Basin Plan which designates all surface and groundwater within the North Coast and San Francisco Bay regions as capable of supporting domestic water supply. The Basin Plan also identifies water quality objectives, discharge prohibitions and effluent limitations intended to protect beneficial uses of the Russian River. Beneficial uses of the Russian River include municipal

and domestic water supply, agricultural water supply navigation, water contact and non-contact recreation, commercial and sport fishing, wildlife habitat, cold freshwater and warm freshwater habitat and estuarine habitat, fish migration and spawning, and estuarine habitat.

Pursuant to CWA § 301(a), 33 U.S.C. § 1311(a), the EPA and the State of California have formally concluded that the logging operations by the Dischargers as identified in this Notice are prohibited by law. Beneficial uses of the Russian River are being adversely affected in a prohibited manner by these violations. The EPA and the State of California have identified the Dischargers' operations at the site as the source of pollutants to the Russian River and its tributaries, contributing to violations of applicable water quality standards.

River Watch contends that from February 1, 2011 through June 15, 2011, the Dischargers have violated the CWA by failing to acquire a permit for timber conversion, discharging pollutants without a NPDES permit, failing to file a report of waste discharge, and failing to demonstrate that a waiver of the waste discharge requirement was obtained. Each and every discharge is a separate violation of the CWA.

River Watch believes the violations set forth in this Notice are continuing in nature or will likely continue after the filing of a lawsuit. Specific dates of violations are evidenced in the Dischargers' own records (or lack thereof) or files and records of other regulatory agencies including the North Coast RWQCB, Sonoma County Permit and Resource Management Department, and CalFire. This Notice also covers any and all violations which may have occurred but for which data may not have been available or submitted or apparent from the face of the reports or data submitted by the Dischargers to the RWQCB or other regulatory agencies.

Pursuant to CWA § 309(d), 33 U.S.C. § 1319(d), each of the above-described violations of the Act subjects the violator to a penalty of up to \$32,500.00 per day/per violation for violations occurring within five (5) years prior to the initiation of a citizen enforcement action. In addition to civil penalties, River Watch will seek injunctive relief preventing further violations of the Act pursuant to CWA § 505(a) and § 505(d), 33 U.S.C. §§ 1365(a) and (d), and such other relief as is permitted by law. Lastly, CWA § 505(d), 33 U.S.C. § 1365(d), permits prevailing parties to recover costs and fees.

The violations of the Dischargers as set forth in this Notice affect the health and enjoyment of River Watch and its members who reside, work and recreate in the affected area. River Watch members use the Russian River watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, property rights, use and enjoyment of this area is specifically impaired by the Dischargers' violations of the CWA.

CONTINUING VIOLATIONS

Recent sampling, the denial of the categorical waiver, the irreparable harm to the watershed, the impacts to the recharge capacity of the soils, the increased runoff caused by denuding of the steep slopes, and the disregard demonstrated by Dischargers of well-established rules governing development, are evidence of the serious and continuing nature of the violations alleged herein.

CONTACT INFORMATION

River Watch has retained legal counsel with respect to the issues set forth in this Notice. All communications should be addressed to:

Jack Silver, Esq.
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CONCLUSION

River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter River Watch intends to file a citizen's suit under Act against the Dischargers for the violations enumerated herein. During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations noted herein. However, if the Dischargers wish to pursue such discussions in the absence of litigation, it is suggested those discussions be initiated within the next 20 days so that they may be completed before the end of the 60-day notice period. River Watch does not intend to delay the filing of a lawsuit if discussions are continuing when that period ends.

Very truly yours,


Jack Silver

JS:lhbm

cc: Administrator
U.S. Environmental Protection Agency
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✓Regional Administrator
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Executive Director
State Water Resources Control Board
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